

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2475

Introduced by Assembly Member Beall

February 19, 2010

~~An act to amend Section 16500 of the Welfare and Institutions Code, relating to child welfare services. An act to add Section 43.94 to the Civil Code, relating to immunity.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2475, as amended, Beall. ~~Child welfare services. Judicial immunity.~~

Existing law grants immunity from civil suit to judges for acts performed in the exercise of their judicial functions. Under the concept of quasi-judicial immunity, this absolute judicial immunity has been extended to persons other than judges if those persons act in a judicial or quasi-judicial capacity, including neutral 3rd parties engaged in attempts to settle disputes.

This bill would provide that the doctrine of judicial immunity or quasi-judicial immunity shall not apply to exonerate any 3rd party who is engaged in mediation, conciliation, evaluation, or similar dispute resolution efforts under any statute or contract from liability for any act performed within that capacity.

~~Existing law requires the state, through the State Department of Social Services and county welfare departments, to establish and support a public system of statewide child welfare services, with the intent that all children are entitled to be safe and free from abuse and neglect.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 43.94 is added to the Civil Code, to read:*

2 *43.94. (a) The doctrine of judicial immunity or quasi-judicial*
3 *immunity shall not apply to exonerate any third party who is*
4 *engaged in mediation, conciliation, evaluation, or similar dispute*
5 *resolution efforts under any statute or contract from liability for*
6 *any act performed within that capacity.*

7 *(b) This section shall apply, but not be limited, to all of the*
8 *following:*

9 *(1) Mediators, guardians ad litem, therapists, receivers,*
10 *bankruptcy trustees, and other persons appointed by the courts*
11 *for their expertise.*

12 *(2) Persons whose work product comes into the judicial process*
13 *to be used by the court even though they were not court-appointed,*
14 *such as social workers and probation department employees.*

15 *(3) Persons involved in alternative methods of dispute*
16 *resolution, such as mediators and neutral factfinders, who function*
17 *apart from the courts pursuant to private agreement, including*
18 *mediators, conciliators, evaluators, and marriage and family*
19 *therapists.*

20 *(c) This section does not apply to any judicial officer,*
21 *subordinate judicial officer, or arbitrator.*

22 ~~SECTION 1. Section 16500 of the Welfare and Institutions~~
23 ~~Code is amended to read:~~

24 ~~16500. The state, through the department and county welfare~~
25 ~~departments, shall establish and support a public system of~~
26 ~~statewide child welfare services to be developed as rapidly as~~
27 ~~possible and to be available in each county of the state. All counties~~
28 ~~shall establish and maintain specialized organizational entities~~
29 ~~within the county welfare department that shall have sole~~
30 ~~responsibility for operating the child welfare services program.~~

31 ~~The Legislature hereby declares its intent, in providing for this~~
32 ~~statewide system of child welfare services, that all children are~~
33 ~~entitled to be safe and free from abuse and neglect.~~

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